

MT LEGISLATIVE HISTORY

Chapter 338 19 71

Bill (H) 337 S _____

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Jan 28 ✓ C

Hearing Date(s) Feb 21 ✓ C

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Date Out Jan 28 ✓ C

Feb 21 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Mr. George Williams from American Sheet Metal Company, Helena, and Mr. Brooks Robinson, from Grogan-Robinson Lumber Company, Great Falls, all gave statements in opposition to this bill. Questions were asked of the witnesses and the hearing was closed.

Executive Session: Mr. Nather wanted it recorded that he was in opposition to this bill. Mr. Hall moved that House Bill 336 DO PASS. Mr. Bennett made a substitute motion that this bill do not pass. After discussion, the motion failed. Mr. Greely moved to amend House Bill 336 on page 2, section 1, line 7 of the original bill by striking the material "ten" and inserting in lieu thereof the material "sixty". The motion carried. A motion was made that House Bill 336 DO PASS AS AMENDED. Motion carried.

HOUSE BILL 337 Mr. Hall gave a description of this bill, which would provide that the owner of real property against which a mechanics' lien has been filed may substitute a bond for the security of the lien. There were no further proponents and no opponents. Mr. Holding from the Montana Wood Products Association asked questions of Mr. Hall. Other committee members asked questions of the sponsor, and the hearing on this bill was closed.

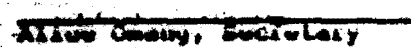
Executive Session: A motion was made that House Bill 337 DO PASS. Motion carried.

HOUSE JOINT RESOLUTION 29 The sponsor did not show for this hearing and there were no witnesses.

Executive Session: A motion was made that HJR 29 do not pass. A substitute motion was made that HJR 29 be passed for the day. Substitute motion carried.

There being no further business before the committee, the meeting was adjourned.


Jeffrey J. Scott, Chairman


Alice Omsby, Secretary

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House Bill 437 was considered. IT WAS MOVED BY Senator Moore, SECONDED BY Senator Turnage THAT HOUSE BILL 437 BE CONCURRED IN. THE MOTION WAS CARRIED.

House Bill 266 was brought to the attention of the committee. IT WAS MOVED BY Senator Moore, SECONDED BY Senator Turnage THAT HOUSE BILL 266 BE CONCURRED IN. THE MOTION WAS CARRIED.

House Bill 337 was considered. IT WAS MOVED BY Senator Moore, SECONDED BY Senator Turnage THAT HOUSE BILL 337 BE CONCURRED IN. THE MOTION WAS CARRIED. Senator Hafferman wanted to be recorded as not agreeing with this decision.

House Bill 279 was brought before the committee. Representative Pat McKittrick spoke in favor of this bill. When he answered a question by Senator Shea he was excused, as no further questions, and he left. Senator Hafferman moved that the amendment the committee was considering, be adopted. The amendment is:

Amend Section 1, page 1, line 18 by omitting the language and numerals "fifteen dollars (\$15)" and inserting in lieu thereof the language and numerals "twelve dollars (\$12)".

Senator Moore seconded the adoption of the amendment. IT WAS MOVED BY Senator Hafferman THAT HOUSE BILL 279, AS AMENDED, DO BE CONCURRED IN. THIS WAS SECONDED BY Senator Moore. THE MOTION WAS CARRIED.

House Bill 477 was considered. IT WAS MOVED BY Senator Hafferman, SECONDED BY Senator Sheehy, THAT HOUSE BILL 477 BE CONCURRED IN. THE MOTION WAS CARRIED.

House Bill 362 was considered and the committee proposed some amendments to it. Then Representative Bennett was called to appear at the meeting and he explained the bill. Senator Shea had a question which was answered by Rep. Bennett. Rep. Bennett was then excused by the Chairman and he left. It was considered by the committee and IT WAS MOVED BY Senator Shea, SECONDED BY Senator Sheehy THAT HOUSE BILL 362 BE NOT CONCURRED IN. (More Senator Shea was excused from the meeting). The committee discussed further this bill, and it was agreed to have a roll call vote; result: 4 yes and 2 no (Sen. Shea not present at roll call vote as had been excused). MOTION THAT 362 BE NOT CONCURRED IN CARRIED.

The meeting was adjourned.

J. Gilfeather
SENATOR P. J. GILFEATHER, CHAIRMAN

CHAPTER NO. 337

An Act to Amend Section 28-603, R.C.M. 1947, Relating to the Protection and Conservation of Forest and Farm Resources by the County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 28-603, R.C.M. 1947, is amended to read as follows:

County commissioners may establish fire seasons. "28-603. **Powers of board.** (1) Boards of county commissioners may in their discretion establish fire seasons annually during which no person shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop lands, subject to the provisions of this act, without having obtained an official written permit to ignite or set such fire from a county rural fire chief or from a district rural chief authorized by the board to issue such permits for such lands;

Penalties for violations. (2) Any person who shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop land subject to the provisions of this act without first having obtained a written permit to ignite or set such fire shall be guilty of a misdemeanor;

Voluntary urban fire crews. (3) To augment rural crews in case of serious emergency the boards may provide for the organization and training of voluntary urban fire crews to be used in rural areas;

Right of entry. (4) Any county rural fire chief and/or district rural fire chief may enter private property either with or without fire control crews for the purpose of suppressing fires, and are exempt from any damage resulting from such activity;

Appropriations. (5) The board is authorized to appropriate from the general fund of the county not to exceed *fifteen* thousand dollars (\$15,000) per year for the purchase, care and maintenance of fire-fighting equipment, or for the payment of wages to skilled operators of heavy mechanized equipment in the suppression of fires when deemed necessary; or if the general fund is budgeted to the full limit, the board may at any time fixed by law for levy

Levy and assessment.

and assessment of taxes levy a tax at such rate as in their judgment will be necessary to raise such needed sum not to exceed *fifteen* thousand dollars (\$15,000)."

CHAPTER NO. 338.

An Act Providing that the Owner of Real Property Against Which a Mechanics' Lien Has Been Filed May Substitute a Bond for the Security of the Lien and that Said Real Property Shall then be Released from the Effect of Such Lien, Together with Any Improvements Thereon, and Providing, in Such Instance, that the Lien Claimant Shall Have an Action upon the Bond Rather than an Action to Foreclose a Lien, and Providing that the Statute of Limitations for Foreclosure of a Mechanics' Lien Shall Apply to an Action upon Such Bond.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever a mechanics' lien has been filed upon real property or any improvements thereon, as enumerated in section 45-501, R.C.M., 1947, the owner of any interest in such property, whether legal or beneficial, may, at any time before the lien claimant has commenced an action to foreclose such lien, file a bond with the clerk of the district court in the county in which such property is situated, or, if such property is situated in more than one county, with the clerk of the district court of any county in which a part of such property is situated. Such bond shall be in an amount one and one-half (1½) times the amount of the said lien, and shall be either in cash or written by a corporate surety company. If written by a corporate surety, such bond shall be approved by a judge of the district court with which such bond is filed. The bond shall be conditioned that if the lien claimant shall be finally adjudged to be entitled to recover upon the claim upon which his lien is based, the principal or his sureties shall pay to such claimant the amount of his judgment, together with any interest, costs, attorney fees, and other sums which such claimant would be entitled to recover upon the foreclosure of a lien against the principal.

Bond in lieu of mechanics lien.

Filing—clerk of district court.

Amount.

Approval—corporate surety.

Conditions.

Release of lien.

Section 2. Upon the filing of a bond as provided in section 1 of this act, the lien against the said real property shall forthwith be discharged and released in full and the said bond shall be substituted for such lien.

Action on bond.

Section 3. When a bond is filed as provided in section 1 of this act, the person filing such lien may bring an action upon the said bond. Such action shall be commenced within the time allowed for the commencement of an action upon foreclosure of a lien, and the statute of limitations applicable to a lien foreclosure shall apply to an action upon such bond as it would had no bond been filed.

Approved March 15, 1971.

CHAPTER NO. 339.

An Act Amending Section 84-4820, R.C.M., 1947, to Provide an Extension of Time for Filing Annual Statement of Railway Freight Car Leases and Payment of Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4820, R.C.M., 1947, is amended to read as follows:

Duty of railroad company to withhold—payment on leased cars.

"84-4820. **Railroad companies to withhold tax, file statements annually and remit to state—receipts—investigations—ad valorem tax basis.** Every railroad company so using or leasing said cars, upon payment therefor to such company shall withhold from such payment five and one-half percent (5½%) of as much thereof as shall constitute gross earnings of such freight line company within this state. On or before March 1, 1970, such railroad company shall make and file with the board a consolidated statement in a form to be prescribed by the board, showing the amount of such payments for the next preceding calendar year ending December 31, 1969, and the amounts so withheld and due the state of Montana. A like report shall be made on or before March 1 of each year thereafter; *provided, however, that for good cause the board may grant a reasonable extension for filing, but not to exceed thirty (30) days.* Such railroad company at the

Annual statement to board of equalization.

Form.

Extension—30 days.

Remittance.

time of filing such statement shall remit the amounts so withheld and due the state of Montana. Upon receipt of such payment, the board shall issue its receipt, in triplicate, one (1) copy of which shall be mailed to such railroad company, one (1) to the freight line company for which such tax is paid, and one (1) to be retained in the office of the state board of equalization. The mailing of such receipt to such freight line company shall constitute notice of the filing of said statement and payment of said tax. If any railroad company shall fail to make or file such report, or if the state board of equalization be dissatisfied with any report filed, the board shall have the power to conduct a hearing and investigation for the purpose of ascertaining from whatever sources to which it has access, the gross earnings of such freight line company from the use or operation of such cars within the borders of this state, and in conducting such hearing and investigation, the board shall have power, by subpoena, to require officers, agents, employees or receivers of such railroad company, or of such freight line company, to attend before the state board of equalization, and to bring with him, or them, for inspection by the board, any books, papers, or documents in his or their possession, or under his or their control, in any manner affecting said tax, and to testify under oath concerning any matter relating to the organization or business of such freight line company within this state. Any person who shall fail, neglect or refuse to attend before the board, when subpoenaed so to do, or who shall fail, neglect, or refuse to bring with him and submit for inspection by the board any books, papers, or documents in his possession or under his control affecting the organization or business of such freight line company within this state, or who shall refuse to testify, or refuse to answer any question which may be asked him concerning the organization or business, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months. Every freight line company, as hereinbefore defined, shall be liable for the payment of the difference, if any, between five and one-half percent (5½%) of all gross earnings in this state and the amounts withheld and remitted to the state of Montana

Receipts in triplicate.

Hearing and investigation.

Subpoena.

Penalties for contempt.

Liability for payment.